

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PHILIP GEORGE LAFFERTY
Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY
Defendant.

CIVIL ACTION NO. 15-5096

ORDER

Plaintiff Philip Lafferty filed this action under 42 U.S.C. §§ 405(g) and 1383(c)(3), requesting judicial review of the final decision of the Acting Commissioner of the Social Security Administration (“Commissioner”), denying his claim for Disability Insurance Benefits and Supplemental Security Income. This Court referred the case to United States Magistrate Judge Carol Sandra Moore Wells, who has issued a Report and Recommendation (“R&R”) that the Commissioner’s decision be affirmed. No objections to the R&R have been filed.

The Commissioner affirmed the decision of the Administrative Law Judge (“ALJ”), who found that although Plaintiff suffered from certain severe impairments, he retained the residual functional capacity to perform medium work, subject to certain limitations, and therefore was not disabled. In his request for review, Mr. Lafferty argued that the ALJ erred in finding that Plaintiff could perform medium unskilled work because he is unable to lift and carry more than 25 pounds, while medium work requires the ability to lift up to 50 pounds. The Magistrate Judge determined that the ALJ’s decision was supported by substantial evidence. Because no objections to the R&R were filed, the Court is not required to conduct a *de novo* review and has the discretion to “accept, reject, or modify, in whole or in part, the findings or recommendations” of the Magistrate Judge.¹ Nevertheless, the Court has carefully considered the administrative

¹ 28 U.S.C. § 636(b)(1).

record and the R&R, and agrees with the Magistrate Judge's recommendation. As explained in the R&R, although the ALJ erred in failing to address a lifting limitation noted by Dr. Le, a state agency consultative examiner, another state agency consultant, Dr. Legaspi, performed a records review that included Dr. Le's records. Dr. Legaspi specifically found that Plaintiff was capable of occasionally lifting 50 pounds, and this opinion was supported by the lack of any objective medical evidence suggesting Plaintiff could not meet this requirement.² Therefore, substantial evidence supported the ALJ's opinion that Plaintiff could perform medium work.

AND NOW, this 3rd day of November 2016, after careful review and independent consideration of the administrative record, and of the Report and Recommendation of United States Magistrate Carol Sandra Moore Wells [Doc. No. 18], to which no objections have been filed, it is hereby **ORDERED** that:

1. The Clerk of Court is directed to remove this action from the suspense docket and return it to the active docket;
2. The Report and Recommendation is **APPROVED and ADOPTED**; and
3. Plaintiff's Petition for Review [Doc. No. 13] is **DENIED**.

It is so **ORDERED**.

BY THE COURT:


CYNTHIA M. RUFÉ, J.

² R&R at 10-11.